JUSTICE
ACTUALITÉS REPORT

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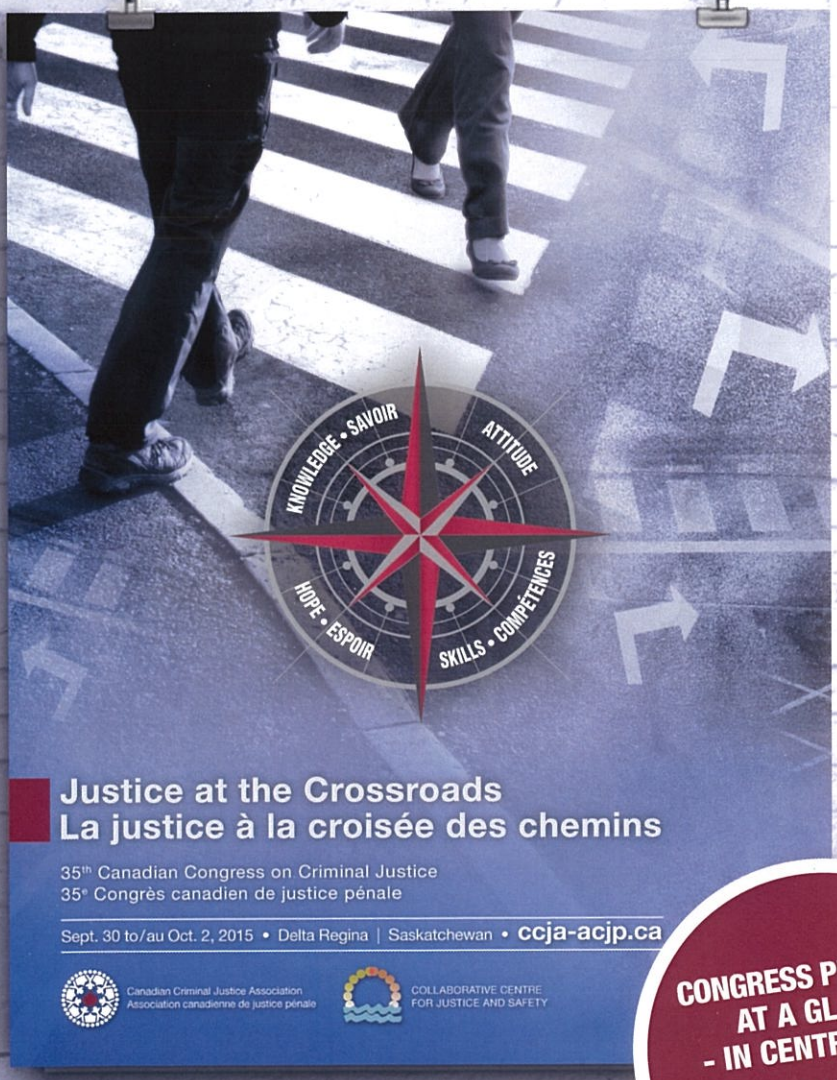
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Justice at the Crossroads
La justice à la croisée des chemins
35th Canadian Congress on Criminal Justice
35e Congrès canadien de justice pénale
Sept. 30 to/au Oct. 2, 2015 • Delta Regina | Saskatchewan • ccja-acjp.ca
Canadian Criminal Justice Association
Association canadienne de justice pénale
COLLABORATIVE CENTRE FOR JUSTICE AND SAFETY

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LES PEUPLES AUTOCHTONES

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CANADIAN CRIMINAL JUSTICE ASSOCIATION •• ASSOCIATION CANADIENNE DE JUSTICE PÉNALE

JUSTICE
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The **JUSTICE REPORT** contains information of value to Association readers and the public interested in matters related to the administration of justice in Canada. Opinions expressed in this publication do not necessarily reflect the Association's views, but are included to encourage reflection and action on the criminal justice system throughout Canada. For more information on the activities of the CCJA, please contact: •• L'**ACTUALITÉS-JUSTICE** renferme des renseignements utiles aux lecteurs de l'Association et au public qui s'intéressent aux questions relatives à l'administration de la justice au Canada. Les opinions qui sont exprimées ne reflètent pas nécessairement les vues de l'Association, mais y figurent afin d'encourager à réfléchir et à agir sur la justice pénale dans tout le Canada. Pour obtenir de plus amples renseignements sur les activités de l'Association, veuillez communiquer avec :

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EDITORIAL

BY IRVING KULIK, Executive Director of the Canadian Criminal Justice Association

As you are reading this issue of the *Justice Report* I would remind you that Congress 2015 is just around the corner and it is certainly not too late to register. We have an excellent lineup of keynote speakers and workshops that should interest everyone. If you have not already done so, please go to our website at **www.ccja-acjp.ca/pub/en/congress-2015** to review the Congress program details.

It has been 42 years (15th Congress) since the congress was last held in Regina in 1973. Our board was keen on coming back to Regina and supporting our nascent affiliate, the Collaborative Centre for Justice and Safety at the University of Regina. We hope you too will want to be part of the friendship and intimate hospitality that Regina can offer.

Our speakers will include Paul Gillespie, Nicholas Bala, Anthony Doob, Rick Ruddell, and Paul Kershaw to name but a few. In addition, on Wednesday, September 30, prior to the commencement of the usual Congress programme, there will be a special forum on Post Traumatic Stress Disorder. The opening speaker will be Dr. Peter Collins, a forensic psychiatrist with the Criminal Behaviour Analysis Unit of the Ontario Provincial Police and a consultant with the RCMP. The whole area of forensics in police work is a fascinating topic for many of us today, and his presentation should create a great deal of buzz. There are a number of other eminent speakers leading the subsequent workshops on this day. While this day-long event is primarily addressing "first responders", we believe the workshops will be of great import to all attendees. Indeed, many of those working in criminal justice can be called upon as first responders and are themselves subject to the risks of PTSD. If you are attending Congress please consider adding this day to your registration. If not, but you are close to Regina, just this day alone will also be a great investment of your time and a wonderful learning experience.

For a number of recent congresses we have offered a special rate to students in order to facilitate their attendance. For Congress 2015 we have opened the doors to students even wider with a nominal registration fee of only $25. If you are a student, consider this offer as a 'once in a life-time' special. If you have students working with you perhaps you can consider sponsoring a number of them so that they can benefit from the educational opportunities afforded by Congress.

The next big event after Congress will of course be the Canadian general election which takes place on October 19. We at the CCJA are most often pre-occupied with criminal justice issues. As you know, on a regular basis we provide our perspective and advice to Parliamentarians regarding criminal justice issues. There are of course many other issues that need to be addressed in Canada. You will hopefully hear from each of the political parties regarding their views and prescriptions on how we can make this country safer, healthier and even more prosperous. Listen to the totality of what they offer, consider the options and make your choices wisely. We live in a wonderful country. May we never take its bounty and its democracy for granted!

Have a great rest of the summer and a pleasant fall.

Let's meet in Regina!

ÉDITORIAL

PAR IRVING KULIK, Directeur général de l'Association canadienne de justice pénale

Au moment où vous lisez le présent numéro d'*Actualités-Justice*, je désire vous rappeler que le Congrès 2015 est imminent et qu'il n'est pas trop tard pour vous inscrire. Nous présenterons une excellente brochette de conférenciers de marque et d'ateliers, qui devrait intéresser tous les participants. Si ce n'est déjà fait, veuillez consulter notre site Web à l'adresse **http://www.ccja-acjp.ca/pub/fr/congres-2015/** pour prendre connaissance du programme détaillé.

Quarante-deux ans se sont écoulés depuis notre dernier congrès, le 15e, tenu à Regina en 1973. Notre Conseil était enthousiaste à l'idée d'y retourner et de soutenir notre affiliée naissante, le *Collaborative Centre for Justice and Safety* de Université de Regina. Nous espérons que vous aussi voudrez profiter de l'amitié et de l'accueil personnalisé que peut offrir Regina.

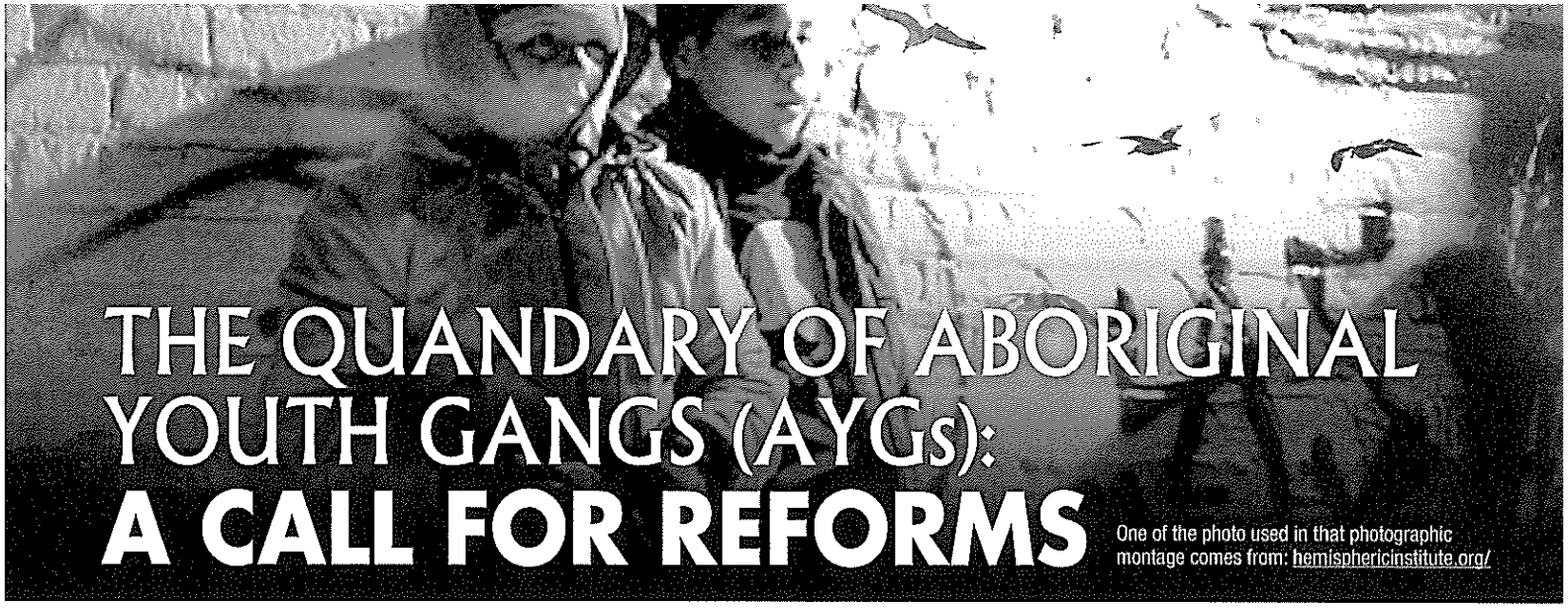
La liste de nos conférenciers inclut Paul Gillespie, Nicholas Bala, Anthony Doob, Rick Ruddell et Paul Kershaw pour n'en nommer que quelques-uns. En outre, nous présenterons le mercredi 30 septembre, avant l'ouverture du Congrès, un forum sur l'état de stress post-traumatique. La conférence d'ouverture sera prononcée par le Dr Peter Collins, un psychiatre-légiste de l'Unité d'analyse des comportements criminels de la Police provinciale de l'Ontario et un consultant auprès de la GRC. Tout le champ des sciences judiciaires dans le travail policier fascine bon nombre d'entre nous aujourd'hui et son exposé devrait générer beaucoup d'effervescence. Plusieurs autres conférenciers éminents animeront les ateliers subséquents de cette journée. Bien que cette séance d'une journée entière soit destinée principalement aux premiers répondants, nous croyons que les ateliers revêtiront une importance pour tous les participants. En effet, bon nombre de ceux qui œuvrent dans le domaine de la justice pénale peuvent être appelés à titre de premiers répondants et sont eux-mêmes à risque d'être victimes d'un stress post-traumatique. Si vous participez au Congrès, veuillez envisager d'ajouter cette journée à votre inscription. Sinon, si vous habitez près de Regina, cette journée à elle seule constituerait un excellent investissement de votre temps et une merveilleuse expérience d'apprentissage.

Lors de Congrès récents, nous avons offert un tarif d'inscription spécial pour les étudiant(e)s dans le but de faciliter leur participation. Pour le Congrès 2015, nous avons fait un pas encore plus grand en leur proposant un frais d'inscription nominal de 25 $. Si vous êtes étudiant(e), considérez qu'il s'agit d'une occasion unique, Si des étudiant(e)s œuvrent auprès de vous, vous pourriez envisager de commanditer plusieurs d'entre eux (elles) afin de leur permettre de profiter des possibilités éducatives offertes par le Congrès.

Un autre événement d'importance suivra le Congrès, en l'occurrence l'élection générale du 19 octobre. Nous de l'ACJP sommes le plus souvent concernés par les enjeux de justice criminelle. Comme vous le savez, nous communiquons régulièrement nos vues et nos conseils aux parlementaires en cette matière. Bien sûr, beaucoup d'autres enjeux méritent qu'on s'y attarde au Canada. Espérons que chacun des partis politiques vous fera part de ses vues relatives à ces sujets, de même que des moyens qu'il envisage pour que notre pays soit plus sûr, en meilleure santé et encore plus prospère. Écoutez tout ce que les partis ont à proposer et les options qui s'offrent, puis faites votre choix judicieusement. Nous vivons dans un pays merveilleux. Puissions-nous ne jamais tenir sa générosité et sa démocratie pour acquises.

Je vous souhaite une bonne fin d'été et un automne agréable.

Au plaisir de vous rencontrer à Regina!



THE QUANDARY OF ABORIGINAL YOUTH GANGS (AYGs): A CALL FOR REFORMS

One of the photo used in that photographic montage comes from: hemisphericinstitute.org/

BY JOHN WINTERDYK, Department of Economics, Justice, and Policy Studies, Mount Royal University, Calgary, AB T3E 6K6

It is a well-established fact that not only in Canada but in virtually all the other 90 countries where, according to United Nation estimates, the world's 400 million Indigenous people (e.g., Australia, New Zealand, South Africa, United States, etc.) are found, they all share a number of common challenges. In addition to having been colonialized and oppressed, mostly by Europeans, their respective lands have been exploited for natural resources (e.g., hydro, minerals, & logging) and their people commonly subjected to benign neglect by civil society, stripped or relocated from their fertile native lands, and they are over-represented in the criminal justice system.

As such, it is also a generally recognized fact that many of the world's Indigenous people have a comparatively lower standard of living, have a larger relative proportion of people living in poverty, experience a relatively greater loss/erosion of their traditional ways, and live in comparatively substandard conditions to their national counterparts. Furthermore, as is the case in Canada, Indigenous people have lower education levels, experience more health problems than do non-Indigenous people, and overall are more limited in terms of opportunities for advancement and integration into (Canadian) culture. However, after six years, the Truth and Reconciliation Commission (TRC) (Chaired by Justice Murray Sinclair) wrapped up in 2015. The final report contains some 94 recommendations intended to help Canadians come to terms and start countering their country's dark past as regards these victims of colonialism. Among some of the key recommendations: restoring traditional names, creating annual reports which will focus on how well the needs of Aboriginal peoples are being met, Aboriginal education for non-aboriginal people, and including the history of aboriginal people and the residential school system with elementary and high-school curriculum.

One of Canada's leading AYG experts Mark Totten (2012) indicates that Canada's Aboriginal peoples' plight has been closely linked to socio-economic and political inequities. In addition, Totten maintains that institutional racism has persisted since early colonization, as have the dipterous effects of the residential schools, which by the time the final school was closed in 1996, had removed some 150,000 First Nations, Inuit and Métis children from their communities and forced them to reside in designated schools often hundreds of miles from home. The rational given is because of their long standing social and cultural practices, Canada's Aboriginal peoples had numerous challenges in trying to adapt and accommodate the rapid modernization of Canadian society. In addition, as has been well documented, many of those placed in residential schools were subject to serious physical and sexual abuse. Various scholars have argued that the mere removal of children from their Indigenous homes, and their isolation to the barren plots of land, were akin to the practice of genocide.

The picture, as numerous scholars and vested interests groups have observed, is not one of which Canada (let alone the international community) can be proud to be associated with. However, it is beyond the scope of this article to embark on a critique of how and why we've come to arrive at such a situation and condition. In Canada, over 400 years of domination and repression has left the federal and provincial governments with a host of challenges that call for (radical) reforms, or deconstruction, to counter this pervasive affliction that Canada's Aboriginal peoples have had to endure.

ABORIGINAL YOUTH GANGS IN CANADA... one aberrant expression of the discord that has ensued and evolved from the blatant neglect and abuse of Canada's Indigenous peoples...

I thus here limit the focus of discussion to but one aberrant expression of the discord that has ensued and evolved from the blatant neglect and abuse of Canada's Indigenous people. That is, youth gang activity among Canada's First Nations' peoples.

(Aboriginal) Gangs in Canada – Definition...

Although it is recognized among scholars of gang research that there is considerable discourse around defining the concept of (street) 'gang', for the purposes of this article we will use the generic definition found on the website of Public Safety Canada, which turned to the Eurogang consortium to offer a 'uniform' definition of a gang. It reads:

A gang is a group of three or more individuals that has existed for at least one month and engages in criminal activity on a regular basis. Gang-related crime can be conducted within the group context or by individual gang members in isolation as long as such criminal activity, directly or indirectly, benefits the gang.

With this definition in mind, it has been pointed out that Aboriginal youth gang involvement has clear precursors. Totten (2012) has appropriately pointed to the consequential emergence of AYGs as a "*burden of suffering*" brought about through colonization and the overt oppression and effects of the extensive use of residential schools, the goal of which was forced assimilation of Aboriginal people without due deference to, or acknowledgement of, their culture or values.

Ironically, despite its expressed problem in the social media, there is a comparatively limited body of academic literature on AYGs. In fact, a few years ago, Grekul and LaBoucane-Benson (2008, p. 61) described the situation as a "glaring omission" in the gang literature.

Aboriginal Youth Gangs represent the second-most powerful gangs next to outlaw motorcycle gangs…

What data in available on AYGs has been described as not only being limited but at times contradictory. Therefore, trying to provide any objective measure of the extent and nature of the problem is highly problematic, especially when it comes to trying to inform any intervention, prevention, or suppression measures. Nevertheless, according to Canada's Criminal Intelligence Service (CSIS), AYGs represent the second-most powerful gangs next to outlaw motorcycle gangs and are just ahead of Asian-based gangs in Canada. Although the numbers are not well-defined, it is estimated that their collective membership exceeds 10,000 members across the country, with the largest concentration of members being in the western provinces. Furthermore, based on a fairly recent national police survey of gangs, the National Crime Prevention Centre (NCPC) of Public Safety Canada reported that Aboriginal youth are more susceptible to gang recruitment and organized crime than are non-Aboriginal youth. Some of the more recognized Aboriginal gangs include the Manitoba Warriors, Indian Posse, British Columbia Warriors, Redd Alert, and Bloods, among others.

AYGs first emerged on the streets of Winnipeg and rapidly spread throughout mostly the western provinces…

Most key sources agree that AYGs first emerged on the streets of Winnipeg and then rapidly spread throughout mostly the western provinces, where most of Canada's Aboriginal people reside. And while they mostly engage in street-level crimes such as trafficking of marihuana, cocaine, crystal meth, and most recently the fatal drug fentanyl, it has also been reported that some gangs have become involved in human trafficking, prostitution, vehicle theft and even serving as enforcers for organized crime groups such as the Hells Angels. In addition to the proliferation of AYGs is the growing concern of Aboriginal girls becoming involved in gangs.

"WHEN YOU HAVE NOTHING TO LIVE FOR…"[1]

As already stated, AYGs appear to have been proliferating in recent years. In fact, several years ago a First Nation's newspaper described the AGY problem, in the Prairies, as being of "crisis proportion." Even though we can still point to the negative and lingering effects of colonization, residential schools, and general oppression of Aboriginal peoples, arguably today considerably more money and resources have been directed to trying to alleviate the plight of Canada's Indigenous people than at any other time in Canadian history. For example, according to a 2013 report by the BC based Fraser Institute, in real terms, federal spending increased from $79 million in 1946/47 to $7.9 billion in 2011/12! The report also indicates that the per capita spending increased from $922 per registered First Nation's person to over $9,000 per person in 2011/12. Therefore, it would appear difficult to argue that the AYG problem is due to a lack of financial resources being allocated to alleviating/addressing the problem.

Embracing proactive approaches that not only acknowledge the history of mistreatment and abuse of Aboriginal people but also their increasing reliance on online activity…

However, as social scientists and politicians well know, there are any number of ways one can ask a question and an equal number of different 'answers' can be put forth to address the issue – in this case, AYGs. Efforts to effectively and efficiently address AYGs need to be embraced in a proactive approach that not only acknowledges the history of mistreatment and abuse of Aboriginal people but also their increasing reliance on online activity, the more dynamic nature of AYGs, and increasing realization that a multi-pronged (i.e., holistic) proactive approach that capitalizes on community capacity building, providing exit strategies for gang members, etc. is required.

A rich body of scientific evidence demonstrates incarceration leads to producing more hardened criminals…

Similar to our response to the over-presentation of aboriginal people in Canadian prisons, until recently most of our attention on the AYG problem has been to try and suppress (i.e., law enforcement) by intervening and incarcerating its members, even though there is a rich body of scientific evidence to show that incarceration can, and does, lead to producing more hardened criminals – especially when the AYG members do not receive the support or supervision they need in order to deal with the issues they are facing in prison. One of the dire consequences of such efforts has been the entrenchment of Aboriginal gangs in prison. This in turn poses further problems for public safety; once released AVG members return to an environment with limited opportunities and new members on the outside. Also, while incarcerated, few AYG members receive the emotional, mental health, or other support needed to address the underlying problems with which they are dealing.

As academic and public discourse has shone a proverbial spotlight on the AYG issue, two main, and related, themes appear to be emerging not only as explanations for the existence of AYGs but how we might begin to effectively address the problem. These initiatives started to emerge around 2000 and have shown promise.

TWO MAIN EXPLANATIONS FOR EXISTENCE OF ABORIGINAL YOUTH GANGS AND HOW TO BEGIN ADDRESSING THE PROBLEM

A call for (radical) reform...

As much as decision-makers might like to naively believe that there are absolute answers to such issues as AYGs, reality has repeatedly reminded us that knowledge is both relative and evolutive. Yet, what has arguably been repeatedly verified is that gang suppression, disruption, and intervention result in limited benefits. Efforts to effectively and efficiently address AYGs need to embrace a proactive approach which not only acknowledges the history of mistreatment and abuse of Aboriginal people but also their increasing reliance of online activity, the more dynamic nature of AYGs, and increasing realization that a multi-pronged (i.e., holistic) proactive approach that capitalizes on community capacity building, providing exit strategies for gang members, etc. is essential.

Fortunately, there is a growing body of literature and demonstrated programs across Canada that point to a range of successful approaches. Among them, the old, simple, but effective approach of community engagement (i.e., it takes a village to raise a child, "broken window" syndrome); an integrated approach which involves education, law enforcement, and support services in a community; providing young people with constructive opportunities (i.e., to paraphrase: 'the devil finds work for idle hands and minds'); and, Chicago-based, Gary Slutkin's health model approach 'Cure Violence' (formerly named Cease fire) which includes three essential components:

1) interrupting transmission of the disease
2) reducing the risk of the highest risk, and
3) changing community norms.

In the end, any prevention efforts grounded in systems theory must be supported and sustainable and we must take to heart the simple assertion that children are our future and that we should never give up on any child or young person regardless of who they are or where they came from.••

FOOTNOTES

[1] Grekul, J. and LaBoucane-Benson, P. (2006). "When You Have Nothing to Live For, You Have Nothing to Die For": An Investigation into the Formation and Recruitment Processes of Aboriginal Gangs in Western Canada. Ottawa: Public Safety Canada

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RÉSUMÉ

THE QUANDARY OF ABORIGINAL YOUTH GANGS (AYGS): A CALL FOR REFORMS

Par John Winterdyk, Department of Economics, Justice, and Policy Studies, Mount Royal University, Calgary, AB T3E 6K6

John Winterdyk examine la question des gangs de jeunes autochtones au Canada et réclame des réformes radicales ancrées dans une compréhension globale et interdisciplinaire des abus historiques subis par les populations autochtones du Canada et du racisme institutionnel persistant. Soulignant que cet héritage colonial, dont le Canada ne devrait pas s'enorgueillir, dépasse le cadre du présent article, Winterdyk met l'accent sur une seule expression aberrante de la discorde qui en découle, en l'occurrence les gangs de jeunes autochtones. Eu égard aux preuves scientifiques voulant que l'incarcération contribue à former des criminels plus endurcis et étant d'avis que les activités de répression, de prévention et d'intervention ne donnent que des résultats mitigés, Winterdyk prône l'adoption d'une approche holistique et proactive émergeant d'un corpus croissant de littérature et de programmes afférents au renforcement des capacités de la collectivité et procurant des stratégies de sortie pour les membres de gangs et soutenant une approche communautaire intégrée en matière d'éducation, d'application des lois et de services de soutien, en plus d'offrir des possibilités concrètes.

PLEASE SEND ANY REMARKS, OR A COMMENTARY, REGARDING THIS ARTICLE

to *Justice Report* Editor, Nancy Wright:

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and keep your eye out for the Notices/Feedback section in future issues!

VEUILLEZ ADRESSER TOUT COMMENTAIRE RELATIF À CET ARTICLE

à l'éditrice de l'*Actualité-Justice*, Nancy Wright :

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Demeurez à l'affût de la section Avis/commentaires dans les numéros à venir

GLADUE FACTORS: SENTENCING ABORIGINAL OFFENDERS IN CANADA

BY MIKE COOK, Criminal Defence Lawyer and President of the Manitoba Criminal Justice

It has often been said that sentencing an offender is an art form. In the United States, the American system of Jurisprudence makes use of sentencing tables. These tables take away much of the court's discretion as the table stipulates what the sentence shall be.

In Canada, our Judges inherently have a wide discretion in sentencing. There are noted exceptions however as many Criminal Code of Canada sections have mandatory minimums. Other than those enumerated sections, the judiciary has wide latitude in formulating a fit and proper sentence. We do not use tables. The sentencing process is very complicated. The Criminal Code of Canada has various sections which clearly codify the purpose and principles of sentencing.

The Code's Section 718 indicates that the fundamental purpose of sentencing is to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions that have one or more of the following objectives:

(a) to denounce unlawful conduct;

(b) to deter the offender and other persons from committing offences;

(c) to separate offenders from society, where necessary;

(d) to assist in rehabilitating offenders;

(e) to provide reparations for harm done to victims or to the community; and,

(f) to promote a sense of responsibility in offenders, and acknowledgment of the harm done to victims and to the community.

One often hears the Crown indicate that the sentence must be sufficient enough to specifically deter the offender from further criminal activity, and, in denouncing the accused's behaviour in this way, to send a general message to the community at large that like criminal behaviour will be met with a harsh sentence.

Defence lawyers generally place emphasis on alternatives to imprisonment ...

Those who stand on the Defence side of the courtroom, including myself, traditionally place more emphasis on Section 718 (d) and ask the Sentencing Judge to craft a sentence that will rehabilitate the offender, avoid jail or with a reduced jail sentence and ultimately assist them to become productive members of the community. Both Crown and Defence counsel refer to precedent law in support of our respective positions on sentence.

Section 718.1 of the Canadian Criminal Code sets forth the fundamental principle of sentencing:

> A sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender.

Other sentencing principles that are addressed daily in Canadian courts are codified in Section 718.2 and include, inter alia:

(d) an offender should not be deprived of liberty, if less restrictive sanctions may be appropriate in the circumstances; and,

(e) all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of aboriginal offenders.

The delicate balancing of all of these codified principles and those emanating from the common law has historically been difficult, but more so in cases involving Aboriginal offenders.

PERCEPTIONS CHANGE, AND SO DOES JUSTICE

I once believed that all Aboriginal, and all non-Aboriginal, offenders could improve their position in life quite easily by pursuing an education, studying hard and getting a good paying job...

Early in my career, I thought all Aboriginal, and all non-Aboriginal, offenders could improve their position in life quite easily by

pursuing an education, studying hard and then getting a good paying job to support themselves and their family. My early ideals were naïve and far too simplistic. I quickly learned that the background of many persons prohibited such a progression to success.

In everyday practice, I see the residual effects of factors that are at times unique to our Aboriginal clients including, inter alia:

- Residential schools
- Alcohol addictions
- Drug addictions
- Gambling addictions
- Domestic violence in the home
- Lack of parental support
- Lack of positive role modelling
- Loss of identity
- Loss of hope
- Poverty
- Being marginalized
- Family or community break down

HOW AND WHY GLADUE REPORTS AND SENTENCING FOR ABORIGINAL PEOPLE CAME INTO BEING: R. v. Gladue (1999) 1 S.C.R. 688...

The seminal case for the sentencing of Aboriginal offenders is R. v. Gladue (1999) 1 S.C.R. 688. Gladue was an Aboriginal woman who pled guilty to manslaughter for killing her common-law husband. She was originally given a sentence of three years of custody. Gladue and her husband had argued and Gladue stabbed her husband in the chest with a large knife. The accused's blood alcohol content was between 155 and 165 milligrams of alcohol in 100 milliliters of blood, more commonly referred to as .15 and .16. At the original sentencing hearing, the Learned Sentencing Judge considered all of the mitigating and aggravating factors, and felt a three (3) year sentence was appropriate for Gladue. Gladue appealed. The three-year sentence was upheld in the British Columbia Court of Appeal and upheld in the Supreme Court of Canada.

During the appeal, the Supreme Court focused on Section 718.2 (e) (CCC), in which Parliament asks Sentencing Judges to take special principles into account as regards Aboriginal offenders. The Court indicated how this Section is remedial in nature, and is designed to ameliorate the serious problem of over representation of Aboriginal peoples in prisons and for Sentencing Judges to have recourse to a restorative approach to sentencing.

Since Gladue, Sentencing Judges must sentence any Aboriginal person, whether they live on a reserve or not, in a unique fashion that takes into account the systemic background factors affecting them. The decision also indicated that a special case-specific report should be crafted. This is the Gladue Report for which we commonly ask when we request a Pre-Sentence Report be prepared for our Aboriginal clients. The decision of the Supreme Court of Canada clearly illustrates how law adapts to the needs of society.

Gladue Reports help the Sentencing Judge understand the unique circumstance of an Aboriginal offender...

I began to understand the very complicated life that many Aboriginal persons in Canada are living...

I recall asking one Aboriginal client many years ago why he did not finish high school. He told me that he failed because he did not complete his homework assignments and had not attended to write any of his exams. Again, using my very simplistic model, I thought those were things that were easily overcome. I then learned that in his household, his father was in prison, his mother struggled with alcohol and drug addiction, the older brother sold drugs from the home, his sister had a boyfriend who beat her regularly, the police were often in attendance, his siblings held drinking parties regularly, he had no place to do his homework and chaos ruled the household. He continued to relate how the home was inundated with various family and friends who would come in and out of the home at all hours, drink alcohol to excess, smoke drugs in the kitchen, push the kids around, and how his homework would be knocked off the table, stepped on, liquor spilled on it; and, the next day, there would be no homework to hand in and/or no studying done to prepare him for his exam. I began to understand the very complicated life that many of Canada's Aboriginal persons are living.

Most Aboriginal offenders have unique circumstances including at least some negative factors, such as abuse, neglect, etc...

The above factors are present in many, but, not every, case. The Gladue Reports help the sentencing judge understand the unique circumstance of the Aboriginal offender. Using the above case reference, it is clear that my client was not well-positioned to succeed. He wanted an education and tried to overcome the negative factors in his house of origin, but they were simply too overpowering. As stated in Gladue, particular attention is paid to the circumstances of Aboriginal offenders "because those circumstances are unique and different from those of non-Aboriginal offenders". That client was a product of his parents and grandparents not being able to cope with the effects of residential school and myriad of other deep-rooted problems in their family history.

Does this mean Aboriginal Offenders will receive a lesser sentence? Yes and No.

Does this mean that Aboriginal offenders will receive a lesser sentence? The answer is no. The answer is also yes. The general rule is that "the more violent and serious the offence, the more likely it is as a practical reality that the terms of imprisonment for Aboriginals and non-Aboriginals will be close to each other or the same".

In putting the Gladue factors into play, the sentencing judge must undertake a three-step inquiry to determine if an Aboriginal offender should go to jail:

1. Consider the unique systemic or background factors common to Aboriginal offenders as a group
2. Consider the factors that may have played a part in bringing the particular Aboriginal offender before the courts.
3. Then decide upon a fit sentence having

regard to the information contained in steps one and two.

CONCLUDING REMARKS

Defence Counsel can readily bring many of the Gladue factors to the attention of the sentencing judge. It is far more preferable to have a trained Probation Officer complete a Gladue report. The report will illustrate to the accused, and to the victims, whether or not crime prevention can be better served by principles of restorative justice or by imprisonment. Quite often the community at large and the offender's community can assist with sentencing by having alternative measures available in the home community.

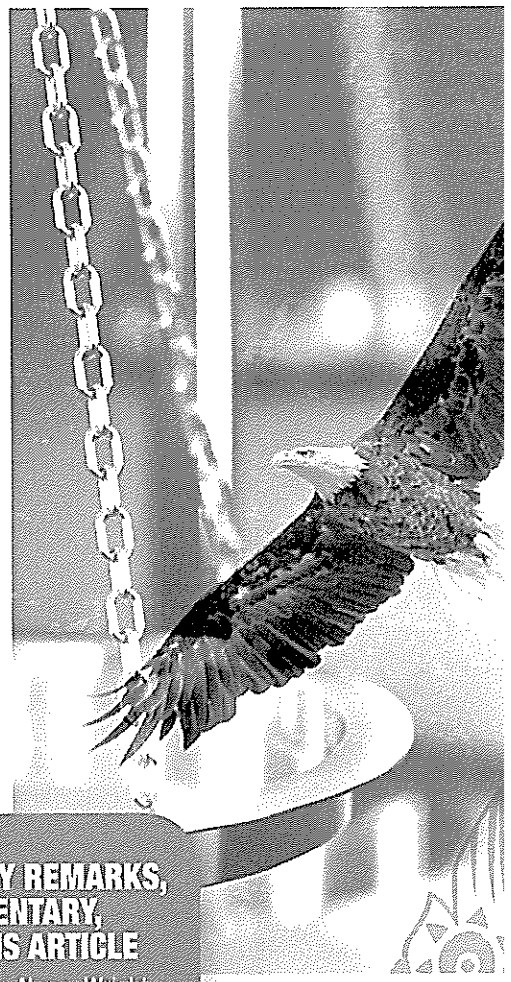
In Manitoba, we have a wonderful body of law that has been developed with cases specifically looking at Gladue factors. This does not ultimately make the sentencing process easier and in fact, may make it even more difficult and much more of an art form. The law has changed considerably since Gladue in 1999 and the courts now are much better able to craft a sentence that pays proper homage to all of the codified principles, looks at the precedent value of other cases and now much more clearly intertwines all of the intricate Gladue factors into crafting a proper sentence that takes into account all of the circumstances.••

RÉSUMÉ

SENTENCING ABORIGINAL OFFENDERS IN CANADA – GLADUE FACTORS

Par Mike Cook, avocat et président de l'Association de justice pénale du Manitoba

Mike Cook se penche sur les dispositions permettant de tenir compte de considérations particulières lors de la détermination de la peine de délinquants autochtones. Celles-ci existent depuis longtemps dans le *Code criminel du Canada* (CCC) et ont été enchâssées dans la *common law* sous la forme de la jurisprudence se dégageant de l'arrêt R. c. Gladue, [1999] 1 R.C.S., une affaire entendue en appel par la Cour suprême du Canada. Expliquant comment l'arrêt Gladue permet dorénavant aux tribunaux de concevoir des peines mieux adaptées aux délinquants autochtones – des peines qui contrebalancent les principes codifiés du CCC et la valeur des précédents (éléments communs) de causes antérieures – Cook démontre que le système de justice pénale canadien, même s'il complique généralement le processus de détermination de la peine, est doté d'une souplesse inhérente qui lui permet néanmoins d'évoluer au fil du temps au gré des perceptions changeantes.



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à l'éditrice de l'*Actualité-Justice*, Nancy Wright :

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THE COLONIAL WAKE, RECONCILIATION, AND COMMUNITY-ORIENTED POLICING WITH INUIT, MÉTIS AND FIRST NATIONS PEOPLE IN CANADA

BY ROBERT CHRISMAS

ABOUT THE AUTHOR

Robert (Bob) Chrismas is in his fourth decade of law enforcement, author of Canadian Policing in the 21st Century: A Frontline Officer on Challenges and Changes (McGill-Press, 2013). He holds a BA and an MA in Public Administration, and is currently a PhD candidate, Peace and Conflict Studies, University of Manitoba researching collaborative multidisciplinary approaches addressing sexual exploitation and human trafficking in Canada.

Note: The thoughts expressed in this article are my own and do not necessarily represent the position of any agency or organization with which I am associated.

"Reconciliation is about forging and maintaining respectful relationships. There are no shortcuts."

- Justice Murray Sinclair / Quote from Truth and Reconciliation Commission of Canada (TRC) website: www.trc.ca/websites/trcinstitution/index.php?p=890

Recent discourse in justice has focused an awareness and recognition of the lasting and compounding impacts of colonization on certain cultural groups within Canada and has specific relevance to public agencies such as the police, courts, corrections, health, education and child welfare systems (Ponce Joly, 2015). The recently released report of the completed Truth and Reconciliation Commission of Canada (TRC, 2015) outlines, along with 94 specific recommendations, the role that police fulfilled during the Indian residential school era and the enduring distrust it has created. How do police regain this deeply embedded, historic lack of trust and integrate and apply this knowledge to reduce crime and victimization? In part, a look back at Aboriginal justice practices has helped bolster and fortify a return to community-oriented policing approaches across Canada.

Canada's colonial past and the lingering effects on Canada's Aboriginal peoples...

Canada's "reserve" system, coupled with the residential schools, which ran from the mid-1800s until 1996 when the last one was closed. The government closed most of the schools in the 1960's, having recognized the failed attempts at forced assimilation, which are known to have persisting negative impacts today (CBC News, 2008, 2011; Goar, 2006; Andres, 1981). However, the closure process "was slow... and gave way to the 'Sixties Scoop,' ("a term coined by Patrick Johnston, author of the 1983 report *Native Children and the Child Welfare System*"), which saw thousands of Aboriginal children 'apprehended' by social services and removed from their families. It took twenty years for this to stop, coinciding with the end of the residential school system" (Indigenous Foundations, UBC).

The link between our colonial past to many modern-day social problems within Canada's Aboriginal populations manifests in high suicide rates, substance abuse, criminal involvement and over-representation in prison and child-protection systems and other traumatic symptoms of severe distress. These traumas are carrying forward from generation to generation (Volkan, 1997), and finding effective solutions to end them should be a priority for Canada.

Aboriginal communities have higher birth rates that the rest of Canada. Youth suicide rates and gang involvement exceed those of any other ethnic group, a trend that may double over the next decade (Lauwers, 2012; Comack et al, 2009; Totten, 2009; Hallet, Thornton & Stewart, 2006). Income is significantly lower among Aboriginal people than the non-Aboriginal population in many parts of Canada (Boyce, Rotenberg & Karam, 2015; Gionet & Roshan-Afshar, 2013; Collin & Jensen, 2009). Many people feel that contemporary Canada may be more appropriately described as "colonial" rather than "post-colonial," because disparities have continued to exist (Ponce Joly, 2015).

Culture and policing...

Culture is the shared values and way its members understand and communicate with each other. Each cultural group falls somewhere along the spectrum between high- and low-context cultures (Augsburger, 1992; Avruch, 1998). In high-context cultures, community harmony and interpersonal relationships are paramount. In low-context cultures such as predominate in westernized countries, individual rights are valued so highly it sometimes can undermine community balance. Thus in low-context cultures, conflict occurs between individuals, while in high-context cultures individual conflicts are more of a community concern (Augsburger, 1992). As such, low- and high-context cultures can benefit from different conflict-resolution strategies, and this is relevant to policing. In the early 1800's Sir Robert Peel provided the first model for modern urban community policing, and he is attributed with the principal that "the people are the police and the police are the people" (Chrismas, 2013).

Today's low-context North American culture features the 'nuclear' family, i.e. one or two parents and their children, which has largely replaced the extended family, whereby grandparents and other relatives lived together and age and experience were highly valued. Traditional Aboriginal cultures, on the other hand have remained high context, valuing harmony and the extended family that includes the entire community. Therefore, Western justice approaches, as are prominent in our mainstream courts, often do not mesh with high-context values. This may be why people from high-context cultures generally prefer to be policed from within, with and by people from their own culture group. The modern-day Western concept is often to leave it to professionals in policing and the courts, who may or may not themselves have the same cultural background. Unresolved treaties and land claims regarding ancestral lands hinder progress in countering the historic distrust of police linked to colonization.

Restorative justice works well in high-context cultures...

Restorative justice is based on the principle that the whole community should be involved in resolving conflicts, in the interest of restoring and maintaining balance. This approach respects 'high-context' beliefs in community harmony (Umbreit, 1995). Traditional restorative justice models may therefore be particularly effective for Aboriginal communities (Hamilton & Sinclair, 1991) and reduce reliance on the mainstream police, courts and prison systems through deeper community involvement (Department of Justice Canada, 2012; Griffin, 2001; Linden, Clairmont & Murphy, 2001). This is not a new concept; it is a return to past traditions from which we have often strayed. As noted on the Department of Justice Canada website, "the thrust toward a more community- and victim-based system of justice is not a new phenomenon, but rather a resurgence of a historically prevalent approach to crime and conflict... This non-judicial and non-legal community-based approach... has dominated Western history. Braithwaite (1997) maintains that restorative justice has been the dominant model of criminal justice throughout most of human history." The first victim-offender mediation program in Canada was established in 1974 (Department of Justice Canada, 2015).

Restorative approaches are also increasingly being integrated for low-context, 'mainstream' cultures in Canada...

In 1996, a community justice forum program was initiated by the Royal Canadian Mounted Police (RCMP) based on a previously successful Australian model (Canada, Department of Justice, 2012). Numerous police officers volunteered (myself included) and were trained as facilitators. This is described in more detail in my book, *Canadian Policing in the 21st Century* (Chrismas, 2013). The goal was to divert charges from the courts by bringing offenders and their supporters together with victims and their supporters to negotiate resolutions and restore community balance. In cases meeting the criteria and like-minded prosecutors, offenders could be diverted from the court system if they agreed to participate in a community justice forum. This process was extremely effective. Offenders avoided criminal records (for minor first offences) and many of them expressed true remorse to their victims after meeting them face to face. Through this process victims obtained a sense of justice and restoration, something that often seems lacking in the mainstream criminal court system. The program did not gain momentum in many regions, mainly due to resource issues. However, many jurisdictions in Canada are now, in 2015, revisiting and exploring how alternative measures such as restorative justice processes can be integrated with conflict resolution, mediation and alternatives to 'mainstream' criminal court processes.

Peacekeepers work well in the First Nations context, and the innovation lies in their intrinsic connection with the community...

Many Canadian First Nations Communities have their own police forces, funded through tripartite agreements between the Government of Canada, the provinces, and First Nations communities. Aboriginal policing is supported through 168 policing service agreements for 408 First Nations communities across Canada (Public Safety Canada, 2012). Some police services working within Aboriginal communities have instituted "peacekeepers" to support regular constables. The Manitoulin Anishinabek police in Ontario, for example, utilize peacekeepers for a wide range of services, including prisoner escorts, guard duties and community events. The innovation lies in their intrinsic connection with the community and its traditional Aboriginal culture. United Chiefs and Council Manitoulin Anishnaabe Police Chief Rodney Nahwegahbow described the program in a presentation to the First Nations Chiefs of Police Conference in Winnipeg, in May 2012, noting that the peacekeepers are involved in most cultural events, fostering connections between the police and the community. The same principle has been applied successfully in both rural and urban environments, and seems to be well accepted by entire communities-including all ethnic groups. The Winnipeg Police Service Cadet program is a cost-effective resource for relieving regular police units from duties such as crime scene protection and traffic duty. They are well received at community events and the program has also resulted in a great pool of potential future police recruit candidates.

Concluding remarks...

Canada is at a tipping point with respect to community-oriented services and public safety... Gladwell (2002) described how change can occur once sufficient critical mass has been reached and what he termed the "tipping point" is crossed. Canada is at a tipping point with respect to community-oriented services and public safety. A great deal of awareness has developed in Canadian Justice, on how to work effectively with Inuit, Métis and First Nations peoples to build community resilience and improve public safety. The growing awareness and sensitivity to cultural perspectives is changing perceptions on appropriate collaboration and on how to make the best use of existing resources and improve community safety together. This process is reminiscent of traditional Aboriginal restorative justice, which involves friends, family, employers and entire communities rather than just professionals and the individuals involved in crimes. Indeed, the "roots of restorative justice models... stem (in part) from traditional Aboriginal methods of conflict resolution that rely on community involvement and the implementation of holistic solutions" (Department of Justice, 2015).

Community-oriented policing has been evolving in different ways. Some police agencies have focused more on crime prevention education, while others have set up neighborhood satellite offices for better exposure; some have created new uniformed beat patrols, community advisory forums or neighbourhood watch programs (Bayley, 1988; Rohe, Adams & Arcury, 2001) to enhance integration of police within, and their knowledge of the community. Restorative justice principles and processes are being studied as a means of reducing crime and victimization and this is inspiring a return to community-oriented policing approaches in Canada. With increasing constraints on police resources and capacity it has become conventional wisdom that the police cannot tackle crime reduction alone, and that a return to community-oriented models of policing is necessary. True crime prevention begins with understanding the social determinants of crime and partnering with the spectrum of services and community resources that can aid in crime prevention. Future success seems tied to our ability to create new models centred on respect, trust, community engagement and collaborative partnerships. ••

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RÉSUMÉ

THE COLONIAL WAKE, RECONCILIATION, AND COMMUNITY-ORIENTED POLICING WITH INUIT, MÉTIS AND FIRST NATIONS PEOPLE IN CANADA

Par Robert Chrismas

Note: les vues exprimées dans cet article sont celles de l'auteur et ne représentent pas nécessairement celles de l'un ou l'autre des organismes ou des organisations auxquels il est associé.

Robert Chrismas, sergent d'état-major du Service de police de Winnipeg, doctorant et auteur, examine le discours actuel relatif aux impacts durables et cumulatifs de la colonisation, notamment en ce qui a trait à l'époque des pensionnats sur les diverses cultures autochtones du Canada (Inuits, Métis et Premières nations). Dans le contexte des constats du récent rapport de la Commission vérité et réconciliation du Canada, Christmas souligne que le rôle de la police au cours de la période des pensionnats et de tentatives subséquentes d'assimilation forcée a donné lieu à un héritage de méfiance envers la police chez les peuples autochtones. Il insiste sur la pertinence de la police communautaire et d'un retour à des approches axées sur les victimes, telles celles qu'offre la justice réparatrice comme moyen de rétablir la confiance perdue envers la police.

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THINKING OUTSIDE THE BOX: ANCIENT HEALING CIRCLES AS A MODERN APPROACH TO JUSTICE

BY CHANTELE THEROUX

ABOUT THE AUTHOR
Chantele Theroux is a Board member of the Canadian Restorative Justice Consortium (CRJC). Her interest in restorative justice came about as a result of her educational background and nearly 10 years of professional career experience in the criminal justice field. She believes that the creation of authentic connection between individuals can help address issues involving complex conflict and crime, and can provide the keys to unlocking the potential of innovative approaches when seeking justice. She is also an editor, writer and a Yoga Alliance & Prison Yoga instructor who specializes in leading sessions for under-served groups who may not otherwise have exposure to the transformational benefits of yoga. She has gained extensive experience and exposure to who and where yoga can serve best. These include incarcerated individuals, people afflicted or affected by addiction, suffering PTSD (Posttraumatic Stress Disorder), victims of crime, at-risk youth, and persons under very high-stress life conditions. First training in Los Angeles, she has guided yoga classes at San Quentin prison and done extensive work with the John Howard Society of Edmonton. Visit her at chanteletheroux.com.

Centuries before courtrooms and complex case law, or formalized judge and jury justice systems and processes, Aboriginal cultures simply looked to the world around them to help solve problems and resolve conflict. Whole lifestyles were constructed honouring the concept that life was cyclical, unending, and everything was connected. As such, the circle became a sacred symbol of community, collaboration, and perhaps most importantly, connection.

Often in our pursuit of solutions to very complex, multifaceted issues, we lose sight of some fundamental aspects of what defines us a human and it becomes important to bring some very basic principles of communication and connection back into focus. Rebecca Adamson, an American Indian Rights Activist, Founder, First Nations Development Institute & First Peoples Worldwide, poignantly puts this view into perspective:

> The indigenous understanding has its basis of spirituality in a recognition of the interconnectedness and interdependence of all living things, a holistic and balanced view of the world. All things are bound together. All things connect. What happens to the Earth happens to the children of the earth. Humankind has not woven the web of life; we are but one thread. Whatever we do to the web, we do to ourselves. ~Rebecca Adamson

Rooted in this recognition is the concept that we can, at any time, take ourselves back to the drawing board and reshape the world in which we live.

The Aboriginal talking (or healing) circle is one practice of many that comprise a larger restorative justice process (which helped build the foundation of our current restorative justice systems and processes used today) that provides a conduit for members of a community to come together and communicate and discuss ideas, or to make important decisions that affect the community as a whole.

The fantastic aspect of this approach is the inherent lack of formalization, as it was recognized that authentic connection is created through the free sharing of ideas and information. While there is a facilitator, the sense of any one individual as an 'authority' over anyone else is nearly absent. This is based on the simple concept that two heads (or 5, or 20) are better than one. When lifetimes of personal experiences and the unique perspectives of participants are combined, and people are willing to join together to make something happen, more effective decisions were found to made. It also helps everyone understand themselves, each other, and issues in a lot more in depth.

A circle may be more informal, but it is not without some basic rules. Arguing and interruption while others are speaking is of no use inside a circle. Instead, silent listening while truly trying to connect with what is being communicated is paramount to its effectiveness. Truth, honesty, and non-judgement also help foster and safe and open environment. The search to find the root of an issue, mindfully discuss the issue as it is in reality, and finding sound, realistic solutions become principle goals of these circles. Subsequently, the true value and benefits can then be realized. These are all fundamental concepts of restorative justice approaches. In brief summary, restorative justice processes seek to recognize harm, promote inclusionary participation of all people involved and/or affected, rehabilitate offenders, and harmonize or reconcile issues through cooperation and understanding.

Applying these principles to conflict resolution and justice processes, it's relatively easy to understand why this has the potential to be such an effective tool. This stated, it doesn't mean that it is an easy process whatsoever. When Aboriginal healing circles are utilized as part of a restorative justice approach, elders of the community, offenders, and often victims (if willing) participate. Offenders openly accept responsibility for their crime(s) and face the consequences of their actions. There is honest discussion relating to the harm caused by the crime, underlying issues that may have contributed

to the commission of the crime (alcohol and/or drug abuse), and how the community can heal in order to move forward. As a result, a myriad of results can be achieved. Specialized treatment plans for the offender may be recommended, restitution may be an agreed remedy for the victim, and unique approaches involving public discussion of the offence can serve as a learning tool for the offender and the greater community. There is an increased feeling of authenticity in every aspect of this process. It is hoped that organically developed agreements and solutions are found and situations better harmonized.

The Canadian Restorative Justice Consortium (CRJC) advocates processes like these as new approaches to address conflict and ultimately assist in crime reduction strategies. When authentic connection is made and an attempt to truly understand each other, real solutions can start to come into focus. We are inspired to create a mindful community of people interested in restorative justice practices, like healing circles, as effective tools to help address a wide range of harms. It's likely that there isn't one miraculous method we can use to overcome problems that we face. There will never be one magic answer to solve issues. But we can look to ancient wisdom to help bring us back into focus and get on the right track. Let's start the difficult conversations, together. ••

RÉSUMÉ

THINKING OUTSIDE THE BOX: ANCIENT HEALING CIRCLES AS A MODERN APPROCAH TO JUSTICE

Par Chantele Theroux, membre du conseil d'administration du Consortium canadien de justice réparatrice (CCJR)

Le CCJR prône de nouvelles approches pour régler les conflits et, en définitive, contribuer aux stratégies de réduction de la criminalité. Il aborde ici la notion de l'ancien cercle de guérison en tant que symbole sacré de la collectivité et de la collaboration et, peut-être plus important encore, en tant que connexion réelle à la culture autochtone. Le cercle de guérison se veut un moyen d'appliquer ces principes à la résolution des conflits et aux processus de justice, explique l'auteure, et est l'une des nombreuses pratiques qui ont contribué à jeter les bases des systèmes de justice réparatrice, qui ont cours aujourd'hui. Bien qu'il ne s'agisse pas d'un processus facile ou d'une solution magique, ajoute-t-elle, le cercle de guérison est un outil efficace qui peut donner une myriade de résultats bénéfiques.

NOTICE OF ANNUAL GENERAL MEETING
AVIS DE CONVOCATION
ASSEMBLÉE GÉNÉRALE ANNUELLE

TO: All Members of the Canadian Criminal Justice Association
À : Tous les membres de l'Association canadienne de justice pénale

SUBJECT: Annual General Meeting
OBJET : Assemblée générale annuelle

WHEN: Wedneday, September 30, 2015 (4:30 p.m. - 5:30 p.m.)
QUAND : Vendredi le 30 septembre 2015 (16h30 à 17h30)

WHERE // OÙ : Delta Regina Hotel * 1919 Saskatchewan Drive, Regina (SK)

AGENDA I ORDRE DU JOUR

1. Adoption of the Agenda // Adoption de l'ordre du jour

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2. Adoption of the Minutes of the last Annual General Meeting (June 12, 2014) //
   Adoption du procès verbal de la dernière assemblée générale annuelle tenue le 12 octobre 2012

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3. President's Report // Rapport du président

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4. Executive Director's Report // Rapport du directeur général

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5. Audited Financial Statements to March 31, 2015 // Rapports financiers des vérificateurs au 31 mars 2015

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6. Appointment of Auditors for 2015-2016 // Nomination des vérificateurs pour 2015-2016

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7. Adjournment // Ajournement

NOTE: If you wish to receive the documents mentioned in the Agenda, please contact us:
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Justice at the Crossroads
La justice à la croisée des chemins

35th Canadian Congress on Criminal Justice | 35e Congrès canadien de justice pénale

Sept. 30 to/au Oct. 2, 2015 • Delta Regina | Saskatchewan • **ccja-acjp.ca**

Canadian Criminal Justice Association
Association canadienne de justice pénale

COLLABORATIVE CENTRE
FOR JUSTICE AND SAFETY

CONGRESS AT A GLANCE | CONGRÈS EN BREF

PTSD: First Responders and Community Workers Forum
TSPT : Atelier pour les Premier Répondants
Pre Congress Session / Atelier Pré-Congrès :

WEDNESDAY, SEPTEMBER 30TH // MERCREDI 30 SEPTEMBRE

Since April 2014, 6 Paramedics, 5 firefighters, and 15 police officers have committed suicide in Canada. 26 families are still grieving.

Everyday in Canada, thousands of professionals dedicate their lives to helping others who experience trauma, often at a cost to themselves: depression, PTSD, burnout, suicide – this cost is too high. Join us to learn more about supporting front line workers by building resilience through trauma-informed practices in our workplace.

9:00 - 10:00 **Opening Remarks** – Dr. Peter Collins

10:00 - 10:15 **Health Break // Pause santé**

10:15 - 11:45 **Workshop #1: THE IMPACT OF STRESS AND TRAUMA ON THE INDIVIDUAL**
Presented by Nick Carleton

WORKSHOP #2: ECONOMICS OF THE IMPACT OF TRAUMA IN THE WORKPLACE
Presented by: Dr Georgi Boichev, Dr Harminder Guliani, Dr Ken Sagynbekov, Dr Stuart Wilson

11:45 - 13:00 **Lunch provided // Dîner fourni**

13:00 - 14:15 **Workshop #3: SELF MANAGEMENT AND SELF CARE**
Presented by Sidney McGillicky

Workshop #4: MANAGEMENT & LEADERSHIP
Presented by Pauline Streete

14:30 - 16:15 **Workshop #5: DISCLOSURE AND SUPPORT**

Workshop #6: TRAUMA INFORMED WORKPLACES
Presented by Ron Camp & Hirsch Greenberg

17:00 – 18:00 **Law Foundation of Saskatchewan Lecture**
Scott Decker, Arizona State University – "Smart Policing"

Where? University of Regina Campus
Free: Shuttle bus leaving at 16:45 from Conference Hotel

18:30 - 19:00 **CCJA Awards Presentation // Remise des Prix de l'ACJP**

19:00 - 21:00 **Opening Reception // Réception d'ouverture**

THURSDAY, OCTOBER 1ST // JEUDI 1 OCTOBRE

8:15 - 9:00 **Congress Opening Ceremony // Cérémonie d'ouverture**

9:00 - 10:00 **Keynote Panel Presentation // Conférenciers d'honneur**
JUSTICE AT THE CROSSROADS: THE CHALLENGES FACING THE JUSTICE SYSTEM IN A RAPIDLY CHANGING ENVIRONMENT.

10:00 - 10:30 **Coffee Break // Pause santé // Exhibits // Kiosques**

10:30 - 12:00 **Breakout session # 1 // Atelier de travail # 1 :**

#1-1 VIOLENCE, TRAUMA AND RECOVERY / INTERNET AND CHILD EXPLOITATION
Paul Gillespie

#1-2 CHANGING PROFESSIONAL CULTURE AND REDUCING USE OF COURTS AND CUSTODY FOR YOUTH: THE YOUTH CRMINAL JUSTICE ACT AND BILL C-10
Professor Nicholas Bala, Queen's University

#1-3 AT-RISK YOUTH

(a) THE CITY OF CALGARY YOUTH JUSTICE SERVICES: INNOVATION, PREVENTION, INTERVENTION
Pat Ellis, City of Calgary, Alberta

(b) URBAN GAMES
Kelly Micetich, MacEwan University, Edmonton, Alberta

(c) FORT MCKAY FIRST NATION E LEARNING PROGRAM
Ona Fiddler-Berteig, Fort McKay First Nation E Learning Program

#1-4 YOUTH JUSTICE
JUSTICE SERVICES FOR ABORIGINAL YOUTH
JoAnn Miller-Reid, Ontario Ministry of Children and Youth Services, Toronto

12:00 - 13:30 Lunch // Dîner

13:30 - 14:30 Plenary Session // Session plénière :
THE PROMISE AHEAD
Presenter // Présentateur : Dr. Anthony Doob

14:30 -15:00 Coffee Break // Pause santé // Exhibits // Kiosques

15:00 - 17:00 Breakout sessions // Ateliers de travail :

#2-1 INCREASING POLICE EFFECTIVENESS

(a) EVIDENCE-BASED POLICING AS A TOOL FOR INCREASING POLICE EFFECTIVENESS IN CANADA
Laura Huey, University of Western Ontario, London, Ontario
Rose Ricciardelli, Memorial University, St. John's, Newfoundland

(b) THE SEARCH FOR EFFECTIVE RURAL POLICING STRATEGIES – ESTABLISHING A RESEARCH AGENDA
Rick Ruddell, University of Regina

(c) EVERYBODY WANTS SAFER COMMUNITIES
Dawn Fleming, Saskatchewan Polytechnic, Prince Albert, Saskatchewan

#2-2 A CHILD IS MISSING: PROVIDING SUPPORT FOR FAMILIES OF MISSING CHILDREN
Duane Bowers and Sylvia Keal

#2-3 ABORIGINAL POLICING

(a) LIFECYCLE OF FIRST NATIONS ADMINISTERED POLICE SERVICES
Savvas Lithopoulos, Public Safety Canada, Ottawa,

(b) FIRST NATIONS POLICING, PEACEKEEPERS AND COMMUNITY-BASED JUSTICE INITIATIVES
Daniel Bellegarde, File Hills First Nation Police Service (FHFNPS) Board, Balcarres, Saskatchewan

#2-4 COLLABORATIVE CRIME REDUCTION STRATEGIES

(a) THE "HUB" IN SASKATCHEWAN: INTERPROFESSIONAL APPROACHES USING EVIDENCE-BASED APPROACHES TO CRIME REDUCTION.
Ron Anderson, Saskatchewan Ministry of Justice, Regina, Brian Rector, Saskatchewan Ministry of Justice, Regina,

16:35 - 17:15 Poster session // Affiches scientifique

18:00 - 22:00 Banquet & Cash Bar // Soirée Banquet, Bar payant – (Tickets required // Billets requis)
Dinner Speaker // Conférencier : TBA

FRIDAY, OCTOBER 2nd // VENDREDI 2 OCTOBRE

9:00 - 10:00 Plenary Session: Impact of Technology // Session plénière
MAKE THE "DIGITAL LEAP" TO EVIDENCE-INFORMED YOUTH PROGRAMMING
Mark Schuler & Marg Stanowski, Operation Springboard, Toronto

10:00 - 10:30 Coffee Break // Pause santé // Exhibits // Kiosques

10:30 - 12:15 Breakout sessions // Ateliers de travail :

#3-1 WOMEN AND THE JUSTICE SYSTEM

(a) LEARNING BY LISTENING: WOMEN WORKING TOGETHER
Darlene Okemaysim-Sicotte, Iskwewuk E-wichiwitochik

(b) INVISIBILITY OF WOMEN IN POLICING RACE IN CANADA
Andrea Anderson, York University, Toronto, Ontario

(C) ELIZABETH FRY'S 2014 HOUSING NEEDS ASSESSMENT
Gemma Napoli, Elizabeth Fry, Toronto

#3-2 COMMUNITY COORDINATION ON DOMESTIC VIOLENCE
Tension in the High-Risk Case Coordination Protocol
Verona Singer, Halifax Police

#3-3 ABORIGINAL PEOPLES AND THE JUSTICE SYSTEM

(a) HEALING JUSTICE WITH CIRCLES
Lori St. Onge, Mi'kmaq Confederacy of Prince Edward Island

(b) THE RIGHT TO A REPRESENTATIVE JURY FOR ABORIGINALS
Myles McLellan, Algoma University, Sault Ste. Marie, Ontario

#3-4 NEW DIRECTIONS IN OFFENDER REHABILITATION

(a) THE CRIMINAL'S DUTY UNDER THE RENOVATION APPROACH
Michael Lessard, McGill University, Montreal

(b) CIRCLES OF SUPPORT AND ACCOUNTABILITY
Otto Dreidger, Circles of Support and Accountability, Regina

(c) NEW PARADIGMS IN FEDERAL CORRECTIONS' APPROACH TO ABORIGINAL NEEDS
Brian Lang, Correctional Service of Canada, Pacific Region

(d) HOW TO OUT MY OWN INNER THUG
Gary Garrison, Alternatives to Violence Project

12:00 - 13:30 **Lunch Break (on your own) // Dîner libre // Exhibits // Kiosques**

13:30 - 14:30 **Plenary session // Session plénière**
COMMUNITY HEALTH AND CHANGE
Presenter // Présentateur : Dr. Paul Kershaw - The Social Determinants of Health

Dr. Paul Kershaw is a farmer morning and night. By day, he is also an academic, public speaker, media contributor and volunteer. At the University of BC, he is a leading scholar of public policy, and a faculty member in the Human Early Learning Partnership. In the Faculty of Medicine, he focuses on the major policy levers that influence the social determinants of health, with a particular interest in policy that shapes these determinants for younger generations.

14:30 - 15:00 **Coffee Break // Pause santé // Exhibits // Kiosques**

15:00 -16:45 **Breakout sessions // Ateliers de travail :**

#4-1 EMERGING CRIMES AND CRIME TRENDS

(a) RECENT CRIME TRENDS IN WESTERN CANADA
Stuart Wilson, University of Regina

(b) HUMAN TRAFFICKING IN ALBERTA: BUILDING CAPACITY IN THE TWILIGHT ZONE
John A. Winterdyk, Mount Royal University and Julie Kaye, King's College, Edmonton.

#4-2 COLLABORATIVE INTERVENTIONS
Stephen Wormith, Centre for Forensic Behavioural Science and Justice Studies, Saskatoon

#4-3 INNOVATION IN COMMUNITY CORRECTIONS
Community corrections: We all live in the same community
Elizabeth White, St. Leonard's Society, Toronto
Dave Pisapio, Correctional Service of Canada, Toronto

#4-4 MENTAL HEALTH AND THE JUSTICE SYSTEM

(a) HIDDEN VICTIMS: THE EFFECTS OF CRIME AND INCARCERATION ON THE MENTAL HEALTH AND WELLBEING OF FAMILIES OF OFFENDERS
Stacey Hannem, Wilfrid Laurier University, Brantford, Ontario

(a) INTERACTING WITH PEOPLE WITH MENTAL HEALTH PROBLEMS: THE DIFFERENCE BETWEEN PROVIDING SERVICES AND THE WAY WE TREAT PEOPLE.
Crystal Dieleman, Dalhousie University, Halifax

(b) RESEARCH AND EVIDENCE-BASED APPROACHES TO MENTAL HEALTH.
Colleen A. Hanrahan, The Institute for the Advancement of Public Policy, St.John's Newfoundland

17:00 - 18:00 **Closing Plenary // Conférence de clôture**

STEPPING DOWN FROM NUMBER ONE IN CANADA: JUSTICE AND CRIME PREVENTION IN INDIGENOUS COMMUNITIES

BY SARAH JACKMAN

Punky Lake Wilderness Camp

ABOUT THE AUTHOR

Sarah is the Executive Director of the *Punky Lake Wilderness Camp Society*, a non-profit organization which provides Restorative Justice and Peacemaking services to the First Nations communities in the central BC area through the Tsilhqot'in Restorative Justice Program. The Society also provides life skills and cultural programming to at-risk aboriginal youth in the Chilcotin area through wilderness camps, sports camps, and workshops as well as youth supervision and adult probation clients. Sarah has training in both Community Justice Forums and Peacemaking Circles and provides training opportunities in the area. Sarah is a Board Member for the *Canadian Restorative Justice Consortium* (CRJC), selected as a representative for British Columbia. Sarah also serves as a Board Member of the local Big Brothers & Big Sisters agency, and is a member of *Communities that Care* and the *Williams Lake Community Council for Restorative Justice*. Sarah was born and raised in west Chilcotin, the area in which she now works to provide services.

We're number one.

That is, we are number one on the Crime Severity Index (CSI) released by Statistics Canada in July of 2015. Williams Lake has the highest rating of any other city over 10,000 people in British Columbia, and the second highest overall in Canada - not a list that anyone wants to get to the top of...

The Cariboo-Chilcotin region of British Columbia is facing some very serious challenges with crime, particularly with Aboriginal youth gang activity. There are over a dozen First Nations communities surrounding Williams Lake, each with their own challenges and struggles. With extremely low graduation and employment rates in the First Nations population as well as very high levels of poverty and substance abuse, the situation is critical. The traditional court system has not been effective at reducing recidivism rates or preventing crime from occurring; alternatives to the traditional justice system must thus be looked at in order to effectively serve and support the Aboriginal population.

COMMUNITY-BASED APPROACHES BASED ON RESTORATIVE JUSTICE AND PEACEMAKING...

Peacemaking and Restorative Justice philosophies are based on traditional practices of indigenous cultures around the world. Restorative Justice principles and approaches/models are based on the understanding of compassion, recognize that no one can be successful alone, isolated or alienated in their community and that everyone is an equal member of society and has a contribution to make to their community. Although it is everyone's responsibility to make responsible choices in their own lives, their ability to do so may be hindered by a large number of influences and perhaps a lack of guidance and mentoring. When someone is following a dangerous path or becoming disconnected, it is the responsibility of the community to bring that individual back to a place of connection within the community, to hold the individual accountable for their actions, and to take the appropriate steps to repair the harm that has been caused.

Punky Lake Wilderness Camp Society and "Tsilhqot'in Restorative Justice" (TRJ) program involving offender, victim(s) and all other community stakeholders...

The "*Tsilhqot'in Restorative Justice*" (TRJ) program, funded through the Aboriginal Justice Strategies Directorate of the Department of Justice, supports the Tsilhqot'in and Southern Carrier Nations in the development of community-based approaches to social justice issues with their youth, families, and communities by assisting in the implementation of sentencing and conflict resolution alternatives that focus on healing, education, and employment opportunities. TRJ is governed by Punky Lake Wilderness Camp Society (PLWCS) Board of Directors, whose seven members are representatives from the Tsilhqot'in and Southern Carrier Nation. Punky Lake Wilderness Camp Society (PLWCS) is a community-based non-profit society designed to provide Restorative Justice, Peacemaking and crime-prevention initiatives and activities to at-risk First Nations youth and their families in the Cariboo-Chilcotin region of British Columbia.

TRJ – a vital service to help heal and support victims of crime and help resolve other community conflicts...

Using a unique blend of Peacemaking Circles and Community Justice Forums, the TRJ has become a vital service in the area to help heal and support victims of crime and help resolve other community conflicts. Referrals are received from the RCMP, Crown Counsel,

Probation, as well as First Nations leadership, on- and off-reserve schools, and support workers. Everyone involved in a specific incident or offence comes together to speak openly and honestly about the incident and the hurt or harm that was caused. The participants come to an agreement about how to meaningfully repair the harm and uncover what had gone so wrong as to cause the crime, i.e., how and why the offence happened. Often, after the circle is completed and sanctions are decided upon, offenders will express how much more difficult and impactful it is to face the victim and other circle participants - than to stand in front of a judge outside the community and have a sentence imposed. PLWCS not only governs TRJ, but also offers a host of programs and services in the Cariboo-Chilcotin region providing Restorative Justice, Peacemaking and crime prevention services.

The families and communities in PLWCS interventions surrounding the youth are included in order to provide a wrap-around approach that betters the youth's quality of life. The Society takes a holistic approach using the Medicine Wheel as a philosophic base in its community work. The Medicine Wheel symbolizes a holistic view of human life where body, mind, emotion and spirit are the four quadrants of the wheel or circle. The interconnectedness of these four aspects of life is overlaid on a holistic view of the four seasons, the four cycles of life (infancy, adolescence, adulthood and old age), the four essential elements of the earth (wind, fire, rain and earth), and the four directions (north, south, east, west). Working with funds provided by various government contracts, the Society has become an instrumental and healing part of the justice system in the central BC region.

(PLWCS): traditional indigenous solutions and problem-solving approaches...

The justice workers of the Punky Lake Wilderness Camp Society also work closely with both youth and adults on probation, providing not only supervision, and they offer assistance in furthering education, treatment and employability and acting as a support person during their probationary period. Bringing back traditional, indigenous solutions and problem-solving approaches in Aboriginal communities is a great first step to honouring the families that reside there, respecting their cultural values and traditions and helping them find their way back to the successful societies of the past.

Punky Lake Wilderness Camp Society's "Success" program culture camps and youth program in Tsilhqot'in Nation and Williams Lake...

Punky Lake Wilderness Camp Society's "Success" program, funded through the Ministry of Children and Family Development, aims to help Tsilhqot'in Nation and Williams Lake area youth to find and follow a healthy path and develop a health worldview through recreation, sports, life skills, and cultural programming – to avoid criminal and gang activities. Since assimilation, culture, storytelling, and traditional teachings are not always passed along to the younger generations as they were in the past. The young people in the area have expressed a real interest and hunger to reconnect and learn more about their culture and traditional ways of life, and the Society has been working hard with communities and Elders to ensure that this need is met through Culture Camps and strong community involvement. Youth programs, whether it be a three-day hockey clinic, a dip netting and river safety field trip, or a weekly drumming and singing circle, are all provided free of charge to the youth and families of the region. Without the Success program, most of these children would never have the means to attend a summer camp or have professional coaching in a sport like hockey or soccer. The programs are also bolstered with a great deal of mentoring regarding the benefits of healthy lifestyle choices and the importance of education, family, and culture.

The Success program also works to assist foster parents help Aboriginal foster children to remain connected to their home community and family so that their culture and tradition are not lost from their lives. Ideally, these children will be returning to their homes and communities at some point in the future when it is safe for them to do so, and the transition is much easier if contact with family has continued. Every effort is made to provide support to all involved, during the fostering process and post-return.

All of these efforts work together to provide healthier environments in which the youth of the Nation can thrive and grow, hopefully avoiding the temptations and traps that can exist for this vulnerable population. The programs are very well attended with groups of youth ranging in numbers from 10-50 youth, depending on the activity.

WORK TO GIVE PROGRAM: WHEN INCARCERATION IS THE ONLY OPTION

Work to Give, a Punky Lake Wilderness Camp Society and Correctional Service Canada (CSC) joint Restorative Justice initiative...

Since not all attempts to intervene are successful and inevitably some individuals do eventually end up incarcerated, the "Work to Give Project", a partnership between Punky Lake Wilderness Camp Society and Correctional Service Canada (CSC) affords a Restorative Justice initiative designed to provide incarcerated offenders with employment skills while contributing to low-income communities and families in the Cariboo-Chilcotin region.

Keeping incarcerated offenders busy and engaged...

Incarcerated offenders have some amount of time on their hands whereby they are "idle" and may not have enough activity, employment or programming to fill their long days. It is believed that this inactivity is a factor that can lead to an increased demand for drugs and contribute to an institutional subculture that is not conducive to rehabilitation. Many offenders already have the skills to produce products, but they do not have the resources or capacity while in prison to build on their knowledge. Furthermore, other offenders would benefit from the opportunity to learn these skills from each other. The opportunity for offenders to give back to communities that are in dire need can engender a restoration that can prevent future harmful actions.

Work to Give... A program that meets multiple needs...

CSC, Punky Lake Wilderness Camp Society, First Nations leaders and organizations in the region have developed lists of needs, which has resulted in offenders producing furniture for homes, schools and band offices, as well as children's clothing, toys, educational materials and other items.

Work to Give: an innovative preventative approach...

The Work to Give Project provides offenders with the raw materials to produce products found on the list of community needs. These products are then donated to Punky Lake Wilderness Camp Society, which distributes them to charitable organizations, low-income families and communities throughout Cariboo-Chilcotin. Given that CSC has a clear over-representation of Aboriginal offenders in Canadian prisons, this project has specifically been designed to provide products to these communities in an effort to address this over-representation from a "preventative" lens.

Success also involves follow-up and positive reinforcement...

Follow-up and positive reinforcement is carried out through regular visits to the carceral institutions by the PLWCS, providing pictures and stories of the impact their donated goods are making in homes and communities, the offenders have become very enthusiastic about Work to Give. They are realizing that their work is being delivered right to the people that have a need for it, and feel engaged and appreciated. In turn, the benefits to the communities receiving the goods have been countless. Hundreds of children, families, schools, and communities are feeling the impact of this project every day.

The goals of the Work to Give Project are three-fold:

1) Provide offenders with opportunities to learn employment skills and make intrinsic changes that ultimately can assist them to adopt pro-social values and attitudes;

2) Contribute to safer institutional environments and to reduce recidivism rates by engaging offenders in meaningful work; and,

3) Improve the lives of Aboriginal children and youth through the contribution of products which can improve their quality of life.

Since the first meeting regarding this project in September 2012, it has grown to be a valuable and highly restorative program within CSC in nine federal institutions in three short years. In the fall of last year, CSC and Punky Lake partnered with the UBC School of Nursing to use Work to Give as the basis of a research project entitled Working 2 Give: Enlisting Positive Masculinities for Incarcerated Aboriginal Men's Mental Health. The findings will be published in 2017. We are already seeing exciting changes in the offenders that work within the project. They have been very open about how connected they feel to the program and the sense of pride it gives them. They are mentoring each other, sharing skills, and feel connected to community. Having a sense of purpose and usefulness is a major factor in reintegration, and it is our hope that this project will continue to give the offenders participating in the activities the drive, skills, and goals they need to have a successful release.

CONCLUDING REMARKS

The road to reducing crime rates and severity in the Cariboo-Chilcotin region is a very long and complicated one, especially considering the unique challenges it faces. Community partnerships and collaboration are playing a major role in working towards that goal. PLWCS works very closely with Big Brothers & Big Sisters of Canada, Communities that Care, and the Williams Lake Community Council for Restorative Justice as well as several other organizations. Communication and learning what services each local organization can provide allows for the community to make more of a wrap-around approach to dealing with the problems they face.••

The three major areas of the Punky Lake Wilderness Camp Society's holistic programming: Success for prevention, Tsilhqot'in Restorative Justice - for intervention, and Work to Give - for intervention, ensure that all areas and stages of the justice process are being addressed. And although our small city may still be number one on the Crime Statistics Index, we feel confident that we of the Cariboo-Chilcotin region will be stepping down from that position in the near future.

RÉSUMÉ

STEPPING DOWN FROM NUMBER ONE IN CANADA: JUSTICE AND CRIME PREVENTION IN INDIGENOUS COMMUNITIES

Par Sarah Jackman, directrice générale du Punky Lake Wilderness Camp Society, un organisme sans but lucratif offrant des services de justice réparatrice et de rétablissement de la paix aux collectivités de Premières nations de la région centrale de la Colombie-Britannique

Sarah Jackman fait le point sur le programme de justice réparatrice *Tsilhqot'in*, un service vital de la région Cariboo-Chilcotin de la Colombie-Britannique, qui contribue à la guérison et au soutien de victimes d'actes criminels ainsi qu'à la résolution d'autres conflits communautaires. Ce programme est géré par la *Punky Lake Wilderness Camp Society* (PLWCS), un organisme communautaire sans but lucratif ayant pour mandat d'offrir des services de justice réparatrice, de rétablissement de la paix et des activités de prévention du crime à l'intention de jeunes autochtones à risque et de leur familles dans les collectivités de Cariboo-Chilcotin. Faisant sombrement référence à Williams Lake comme étant au sommet de l'indice de la gravité de la criminalité déclarée, établi par de Statistique Canada, et mettant en lumière l'échec de l'approche traditionnelle de la justice pénale dans cette région, Jackman traite d'autres initiatives de la PLWCS, tel le programme "Success" (à l'intention de la nation *Tsilhqot'in* et des jeunes de la région de Williams Lake), de même que le programme unique *Work to Give* à l'intention de délinquants incarcérés.

A SNAPSHOT OF ABORIGINAL RESTORATIVE JUSTICE

BY STEFAN HORODECKYJ, BA, BED, JD

Restorative justice (RJ) is becoming popular within a framework of both Aboriginal and non-Aboriginal applications. Restorative justice can be defined as being a philosophy - a way of looking at misbehavior. The Aboriginal restorative justice system, as does the non-Aboriginal restorative justice system, addresses, in a non-adversarial milieu, the harm done/needs and obligations of all persons affected by a misbehavior. Both RJ systems also strive to achieve reconciliation, reparation and restoration of relationships between the victim, offender and other stakeholders in the community, rather than punishing the offender. **(FN#1)**

Aboriginal RJ shares many RJ values with non-Aboriginal RJ. These include: respect, honesty, trust, humility, sharing, inclusivity, democracy, cooperation, courage, caring, the worthiness of all, empathy, compassion, forgiveness and love. These RJ values are interrelated and support each other. However, Aboriginal RJ also differentiates itself from non-Aboriginal RJ in that the former underscores and highlights certain RJ values based on Aboriginal culture and traditional teachings. These Aboriginal RJ values include: respect, caring, sharing, kindness, honesty, strength and humility. **(Ojibway Tribe - First Nations traditional teachings)**

Aboriginal RJ also shares fundamental RJ principles with non-Aboriginal RJ. These principles are based on RJ values and include (1) focusing on harms done and consequent needs of victims, the offender and the community; (2) Addresses obligations of the offender and community that result from the harms; (3) Uses inclusive and collaborative processes; (4) Involves those with a legitimate stake in the misbehavior; (5) Seeks to put things as right as possible. **(FN#2)**

However, Aboriginal RJ also possesses unique principles, which are based on Aboriginal culture and traditional teachings, and also on RJ principles.

MAJOR ABORIGINAL RESTORATIVE JUSTICE PRINCIPLES

1. All things are interrelated - everything in the universe is part of a single whole; and the universe is made up of the physical world and the spiritual world.

The physical world includes earth (i.e., plants, animals and sea life), water, fire and wind. On the other hand, the spiritual world is unseen and includes the Creator and ancestors. A person is connected to both of these worlds and must maintain a positive relationship with both of them, to remain in a state of harmony and balance in his earthly life. This can only be accomplished if a person shows respect and caring vis-a-vis the universe.

2. All creation is in a state of constant change.

There are two kinds of change - developmental and disintegration. **(FN#3)** The former includes a person changing his/her behavior from unacceptable to socially acceptable. The latter includes positive behavior becoming socially unacceptable. According to Aboriginal teachings, humans have the ability to acquire 'new gifts' (talents) **(FN#4)** and, therefore, can change for the better. These 'gifts' include learning, adopting, nurturing and implementing positive social values, such as respect, caring and sharing. These 'gifts' should be honoured and celebrated by all persons.

3. When a wrong is committed, a person achieves harmony and balance through the healing process.

Healing is based on the **'Aboriginal Medicine Wheel'** paradigm. It states that for a person to be healthy, the four aspects of his/her persona – emotional, spiritual, mental and physical, must be in a state of harmony (balance).

Healing cannot be achieved in isolation...

Aboriginal teachings emphasize that the healing and welfare of the community is paramount. If the community (tribe) is healed, then the clans will be healed, and in turn the family will be healed, and ultimately the individual will be healed and healthy.

Traditional Aboriginal teachings also underscore the importance of the family unit, in the health of a person. A healthy family, which is close-knit, can help develop and nurture positive social values in its members.

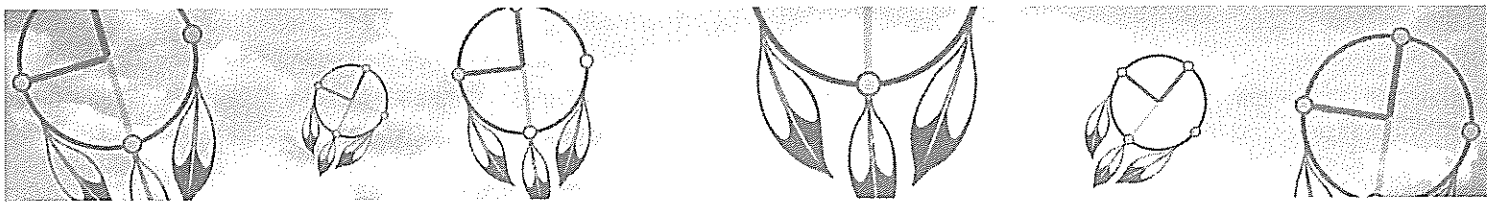
Aboriginal RJ focuses on establishing and maintaining positive and healthy relationships

Healing can be accomplished only if reconnection between people is achieved. Hence, Aboriginal RJ focuses on establishing and maintaining positive and healthy relationships. In order to maximize healing, the 'Aboriginal Medicine Wheel' paradigm states that the wrongdoer, victim and other community stakeholders should reconnect on the emotional, spiritual, mental and physical levels.

Accountability of the offender and what caused his/her disconnect...

Healthy connections with others in relationships starts when the person who committed the wrongful act takes responsibility for the behavior. He/she must be accountable for the behavior and not in denial, or minimize, or make rationalizations (e.g., blame the victim) for this behaviour. The wrongdoer must realize the real impact of his behaviour on others. This includes who was negatively affected, and the extent of the harm done.

In healing, the process of reconnecting in-



volves as certaining why the person who committed the wrongful act is disconnected. The causes might include: the fact that the person was physically, emotionally or sexually abused as a child; he/she was raised without healthy connections and thus unware of values, such as respect, humility, honesty and caring; the person was never forgiven for wrongful acts committed, or never forgave him/herself; or the person has become manipulative of others, since over time he/she rationalized that this was acceptable and the only way to get attention from others.

Once the reasons for disconnectedness are discovered, the next step is to address these causes and to hopefully prevent future disconnectedness for this person and others. It is necessary to get rid of these causes-the anger, pain, grief, and guilt harbouring in the person and replace them with positive feelings such as respect and caring.

Aboriginal RJ... speaking from the heart with caring and no judgement, blame or stigmatization...

In Aboriginal RJ language is a powerful tool in the art of healing individuals. In Aboriginal RJ programs the participants must 'speak from the heart'. **(FN#5)** This means that the words used must be friendly and caring, and not judgmental, blaming and stigmatizing. For example, an expression such as 'bad or evil behaviour' should be avoided and replaced by an expression such as 'behaviour that is not helpful or beneficial for the community.

Finally, Aboriginal RJ is acutely aware of the healing power of Aboriginal traditional ceremonies (rituals). Ceremonies reflect the culture and creativity of the participants. Aboriginal ceremonies can be simple or elaborate and include: the 'circle', 'smudging', 'sweat lodges', communal prayer, communal singing and dancing. The goals of these ceremonies is fourfold **(FN#6)**: to create a feeling of community; to generate respect for others; to prepare participants for releasing negative emotions ('purification'); and to create a safe place for the "heart to speak'.

4. Aboriginal Restorative Justice does not maintain that prison should never be used to deal with wrongdoers.

Aboriginal RJ posits that a period of incarceration (preferably shorter than longer) is appropriate in cases where the wrongdoer is not ready to participate in Aboriginal RJ programs (e.g., has major psychiatric/substance abuse issues to address); or is not willing to participate in an Aboriginal RJ program.

Having looked at the definition, values and principles intrinsic to Aboriginal RJ, we are ready to examine in some detail a major Aboriginal RJ program - the Community Holistic Circle Healing Program in Hollow Water.

COMMUNITY HOLISTIC CIRCLE HEALING (CHCH) PROGRAM IN HOLLOW WATER – A MAJOR ABORIGINAL RJ PROGRAM...

Hollow Water First Nation is a First Nations community in the Northern Region of Manitoba, Canada. This small Ojibway community was seriously impacted by community-wide and intergenerational sexual abuse, family violence, substance abuse and suicide. For many years the wrongdoers were dealt with exclusively by the existing non-RJ, Western Society's criminal justice system. The wrongdoers would serve their prison sentence; return to the community, and in most cases repeat the same or similar offences, and then would re-enter the criminal justice system. In the mid 1980's this Aboriginal community decided to make a major change in their criminal justice system, in order to better deal with crime. They established an Aboriginal Community Holistic Circle Healing program (CHCH).This program is also referred to as a 'healing circle' or 'peacemaking circle'.

In 'Hollow Water', before a case of childhood sexual abuse reaches the CHCH program, the following steps must take place: the police must arrest the suspected child abuser; if the accused admits guilt, then he/she is referred to the CHCH program (where there is no admission of guilt, then the accused is processed through the non-RJ criminal justice system); the abused child is offered emergency medical and psychological care (the welfare of the child is paramount); the non-offending spouse and family members are also offered emergency medical and psychological care.

The CHCH program uses the team approach. On this team, referred to as the 'circle', the following persons participate: the victim and his/her family members and close supporters; the wrongdoer and his/her family members and close supporters; community stakeholders, including - Aboriginals and non-Aboriginals, former victims and ex-wrongdoers who have healed substantially and therefore, can be objective in their dealings with the other participants in the 'circle', volunteer lay persons and professionals - including child protection workers, nurses, alcohol and drug addiction counsellors, school authorities, community church personnel, and RCMP officers.

Within the context of the CHCH program is where the 'healing contract' (between the victim, the wrongdoer and other community stakeholders), and the long and often painful work and successes happen. The 'circle' addresses the harm experienced and the consequent needs and obligations of all affected by the sexual abuse (the victim, wrongdoer and other community members). The 'circle' strives to achieve reparation and harmony in all four aspects of the parties' persona: (a) emotional, (the 'circle' provides individual and group psychological/psychiatric support and counselling for those who want it); (b) spiritual, (the 'circle' provides a safe and sacred place for participants to connect with

the spiritual world through communal prayer and singing); (c) mental (the 'circle' provides opportunities to discuss the rationale and wisdom of positive thoughts and deeds versus negative thoughts and deeds); and, (d) physical (the 'circle' offers medical care by employing services of health care professionals) ('Aboriginal Medicine Wheel').

Without labelling and stigmatizing the wrongdoer for the sexual abuse, the 'circle' wants the wrongdoer to feel shame and be accountable for the inappropriate behavior. In order to do this, the wrongdoer must come to appreciate the substantial negative impact the behavior has had on the victim, and his/her family and friends, as well as on the abuser's family and friends and the community at large.

The CHCH program focuses on the wrongdoer's relationships with his/her family and other members of the community. The 'circle' often asks the participants important, probative questions, including: "How do you feel? And - What have you learned?" **(FN#7)**

CHCH implements 'speaking from the heart'. As noted earlier, this is language that does not criticize or label any person. This is an important factor in the healing of all participants.

Finally, the CHCH program makes extensive use of traditional Aboriginal ceremonies to reinforce the healing process. The 'circle' is the most important and prevalent ceremony used. The 'circle' fosters a sense of respect, equality and unity of the participants. In the 'circle' ceremony, as the word suggests, the participants sit in a circle formation when they meet to discuss the sexual abuse incident. In the 'circle', after a question or issue is raised, going around the circle, each person takes a turn speaking to it. Everyone is free to speak as long as they wish, or not at all if they choose. Interruptions and impatience is discouraged. No one speaks out of turn and everyone concludes their contribution by thanking the 'circle'.

In addition to the 'circle' format, the CHCH program also uses communal prayer, singing and chanting, 'smudging' and 'sweat lodge' ceremonies to strengthen the relationship bonds between the participants, and between the participants and their Creator and ancestors.

The CHCH program's healing sessions run for months and even years. Following substantial healing, the Aboriginal RJ team provides the Judge in the non-RJ Criminal Court with a realistic assessment of the challenges the case presented and continues to present. The Judge is then ready to sentence the wrongdoer. The sentence often requires that the wrongdoer continue his/her active participation during the healing process in the CHCH program. Imprisonment is not part of the sentence if the wrongdoer agrees to continue with CHCH. Every six months after sentencing, the RJ team is required to repeat the healing regime (without the Court being a participant) in order to reaffirm the promises of all ('healing contract'). Finally, when significant healing of all participants has taken place, the 'cleansing ceremony' is held to mark the completion of the 'healing contract' and to celebrate the successes achieved.

The CHCH has proven to be very successful. Most of the wrongdoers did not repeat their sexually abusive behaviour and only a few were jailed, primarily because they failed to participate in the healing program. **(FN#8)**. Community Holistic Circle Healing (CHCH) in Hollow Water has taken 48 offenders into their healing process. To date, none have completed the full healing process and only 2 have been charged with subsequent sexual offenses. For a process that is still evolving and growing, Hollow Water can stand with any other treatment program available anywhere (Aboriginal Peoples Collection 1997).

CONCLUDING REMARKS

Aboriginal Restorative Justice is similar in many ways to non-Aboriginal RJ; however, Aboriginal RJ is unique in that it incorporates traditional Aboriginal cultural teachings/principles, including the following: all things in the universe are interrelated; the universe is made up of the physical and spiritual worlds; all creation is in a state of constant change; when a wrong is committed, a person achieves harmony/balance through healing; healing must take place on the emotional, spiritual, mental and physical levels; healing is primarily about developing and maintaining healthy relationships in the family, with friends and members of the community at large; healing is fostered by friendly, non-judgmental language and by Aboriginal traditional ceremonies; and in some rare cases there is no choice but to imprison the wrongdoer. Finally, the CHCH program in Hollow Water provides an excellent example of an Aboriginal RJ program that incorporates all of the above-mentioned Aboriginal teachings.••

FOOTNOTES

FN#1: Howard Zehr. *The Little Book of Restorative Justice* (PA: Herald Press, 2002)

FN#2: Ibid, pp. 32-33

FN#3: Rupert Ross, *Returning To the Teachings: Exploring Aboriginal Justice* (Penguin Canada, 2006), p. 290

FN#4: Ibid, p. 72

FN#5: Ibid, p. 170.

FN#6: Kay Pranis & Barry Stewart & Mark Wedge. Peacemaking Circles: *From Crime to Community* (MN: Living Justice Press, 2003), pp. 116-117

FN#7: Rupert Ross, *Returning To the Teachings: Exploring Aboriginal Justice* (Penguin Canada, 2006), p. 146.

FN#8: Ibid, p. 35.

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RÉSUMÉ

A SNAPSHOT OF ABORIGINAL RESTORATIVE JUSTICES

Par Stefan Horodeckyj, B.A, B. Éd., J.D.

Me Stefan Horodeckyj discute de la popularité croissante des applications autochtones et non autochtones des régimes de justice réparatrice (JR) au Canada. Il conçoit la JR comme une philosophie, une façon d'aborder la mauvaise conduite d'une manière non accusatoire. Celle-ci a pour but de s'attaquer aux torts/besoins et aux obligations des parties et de tenter de parvenir à la réconciliation, à la réparation et au rétablissement des rapports entre la victime, le délinquant et autres parties prenantes de la collectivité. Il énumère les valeurs que partagent les deux types de JR et discute de comment la JR autochtone et la JR non autochtone se distinguent l'une de l'autre et de comment la première est unique dans sa façon d'incorporer les enseignements et les principes de la culture autochtone traditionnelle. L'auteur renforce son article en présentant une description éclairante d'un programme important de JR autochtone offert dans une petite collectivité Ojibway du Manitoba: le Processus holistique de réconciliation de la Première Nation de Hollow Water.

RESTORATIVE OPPORTUNITIES PROGRAM

Source: Correctional Service of Canada (www.csc-scc.gc.ca/justice-reparatrice/0003005-1000-fra.shtml)

Restorative Opportunities Program - Restorative Opportunities (RO) is a Correctional Service of Canada (CSC) program

Restorative Opportunities (RO) is a Correctional Service of Canada (CSC) program that offers people who have been harmed by a crime, either directly or indirectly, a chance to communicate with the offender who caused the harm.

RO is a post-sentence program in which participation is voluntary for everyone concerned. The program explores opportunities to use various victim-offender mediation models that best suit the needs of the participants, as defined by the participants, with the help of a professional mediator.

Victim-offender mediation is a process through which a trained community-based mediator prepares interested victims and offenders to communicate and provides them with the opportunity to meet in a safe, structured setting. During these meetings, participants can tell their story, explain to the offender the crime's physical, emotional and financial impact on their lives, explore unanswered questions about the crime and the offender, and participate directly in developing options to try to address the harms caused, where possible. Offenders are afforded opportunities to provide information and to gain insights that contribute to their accountability and personal growth.

This approach differs from conventional mediation in that the parties are not "disputants" in the usual sense; one is an admitted offender and the other is the victim or person(s) who experienced the harm. Furthermore, the process is not focused on reaching a settlement, but rather on open communication. This approach is in line with the values and principles of restorative justice that emphasize recognition of harm, choice, inclusion, facilitated dialogue, accountability, safety and truth.

Program models may vary, but they all have certain features in common: voluntary participation at all stages of the process, extensive preparatory work, confidentiality so as to avoid influencing National Parole Board decisions, and highly trained mediators who are perceived as neutral by both parties. Many encounters are face to face, but other options, such as exchanging letters or video messages, are also available. Alternatively, a mediator can act as a go-between, relaying messages between victims and offenders. The choice of model is guided by the participants' needs.

The goal of the RO program is to meet the needs of participants and to address the harms caused, while protecting against re-victimization. Forgiveness is not a goal or expected result of a victim-offender mediation process and is not required in order to achieve a meaningful interaction. It may be a by-product in some cases; however it is not explored unless it is raised as a need by the participants.

The reasons for which a person may choose to participate in victim-offender mediation are very unique and individual. The decision to participate may stem from many months or years of thought and reflection. This process is not an easy one and is not for every victim; nor is it for every offender.

Accessing Services through the Restorative Opportunities Program

Participation in the RO program is available to people harmed by the offence requesting to communicate with the offender who caused the harm. Services provided by the RO program are available to registered victims, victim representatives acting on behalf of registered victims, and non-registered victims impacted by the crime.

Victims interested in Restorative Opportunities may contact CSC's Restorative Opportunities Coordinator at 613-995-4445 or by e-mail. Victims can also call CSC's Victim Services Division toll-free at 1-866-806-2275 where the call will be directed to the appropriate Victim Services Officer.

Federal offenders serving a sentence under the jurisdiction of the Correctional Service Canada and who have taken responsibility for their actions may express their interest to participate in the RO program to a CSC staff person, (ex. Parole Officer, Chaplain, Psychologist, etc.). The request will then be forwarded to the RO program for further consideration. Requests made directly by an offender to the RO program administration will not be accepted.

CSC's Commissioner's Directive 785 provides additional details regarding victim-initiated, institutional and community requests for victim-offender mediation services through the RO program.

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PROGRAMME POSSIBILITÉS DE JUSTICE RÉPARATRICE

Source: Service correctionnel Canada (www.csc-scc.gc.ca/justice-reparatrice/003005-1000-fra.shtml)

Le programme Possibilités de justice réparatrice (PJR) du Service correctionnel du Canada (SCC)

Le programme Possibilités de justice réparatrice (PJR) du Service correctionnel du Canada (SCC) offre aux personnes qui ont été touchées par un crime, directement ou indirectement, la possibilité de communiquer avec le délinquant qui leur a causé du tort.

Il s'agit d'un programme postpénal auquel toutes les personnes concernées peuvent participer volontairement. Il offre la possibilité de recourir à divers modèles de médiation entre les victimes et les délinquants et de choisir celui qui convient le mieux aux participants, selon les désirs de ces derniers, avec l'aide d'un médiateur professionnel.

La médiation entre la victime et le délinquant est un processus dans le cadre duquel un médiateur qualifié de la collectivité prépare les victimes et les délinquants intéressés à communiquer et leur offre la possibilité de se rencontrer dans un milieu structuré et sécuritaire. Durant ces rencontres, la victime peut raconter son histoire, expliquer au délinquant les conséquences que le crime a eues sur sa vie sur le plan physique, affectif et financier, trouver des réponses aux questions en suspens sur le crime et le délinquant et participer directement à l'élaboration d'options pour tenter de redresser les torts, dans la mesure du possible. Le délinquant a la possibilité de fournir de l'information et de percevoir différemment son comportement, ce qui contribue à sa responsabilisation et à sa croissance personnelle.

Cette approche diffère de la médiation traditionnelle, car les participants ne sont pas considérés comme des « personnes impliquées dans un conflit » au sens habituel du terme : une des parties est un délinquant qui a reconnu son crime, tandis que l'autre partie est la victime ou les personnes qui ont subi des torts. Par ailleurs, le processus n'a pas pour objet de trouver un arrangement, mais plutôt de favoriser la communication. Cette approche respecte les valeurs et les principes de la justice réparatrice, qui mettent l'accent sur le tort, le choix, l'inclusion, le dialogue, la responsabilisation, la sécurité et la vérité.

Les modèles de programmes peuvent varier, mais ils possèdent tous certaines caractéristiques communes : la participation volontaire à toutes les étapes du processus, un travail préparatoire approfondi, la confidentialité afin de ne pas influer sur les décisions de la Commission des libérations conditionnelles du Canada et des médiateurs hautement qualifiés qui sont perçus comme des intervenants neutres par les deux parties. Les rencontres se font souvent en personne, mais il existe d'autres options, comme l'échange de lettres ou de messages vidéo. Un médiateur peut également jouer le rôle d'intermédiaire pour transmettre les messages entre les victimes et les délinquants. Le choix du modèle repose sur les besoins des participants.

L'objectif du programme PJR est de répondre aux besoins des participants et de réparer les torts causés, tout en prévenant la récidive. Le but ou le résultat escompté du processus de médiation entre la victime et le délinquant n'est pas d'obtenir le pardon de la victime, lequel n'est pas nécessaire pour créer une véritable interaction entre les parties. Il arrive que la victime pardonne au délinquant, mais la question du pardon n'est pas abordée, sauf si les participants en expriment le désir.

Les raisons pour lesquelles une personne choisit de participer au processus de médiation entre la victime et le délinquant sont très personnelles. Certaines personnes décident d'y participer après des mois ou des années de réflexion. Il s'agit d'un processus difficile qui ne convient pas à toutes les victimes ni à tous les délinquants.

Pour participer au programme Possibilités de justice réparatrice

Les personnes qui ont subi des torts et qui désirent communiquer avec le délinquant responsable des torts qu'elles ont subis peuvent participer au programme PJR. Les victimes inscrites, les représentants des victimes inscrites et les victimes non inscrites touchées par le crime ont accès aux services offerts dans le cadre du programme PJR.

Les victimes qui désirent participer au programme peuvent communiquer avec le coordonnateur des Possibilités de justice réparatrice du SCC par téléphone, au 613-995-4445, ou par courriel. Elles peuvent également appeler sans frais à la Division des services aux victimes du SCC, au 1-866-806-2275. L'appel sera acheminé à l'agent des services aux victimes approprié.

Les délinquants sous responsabilité fédérale qui purgent une peine relevant du Service correctionnel du Canada et qui assument la responsabilité de leurs actes peuvent informer un membre du personnel du SCC (agent de libération conditionnelle, aumônier, psychologue, etc.) de leur désir de participer au programme PJR. Leur demande sera acheminée aux administrateurs du programme pour être examinée. Les demandes envoyées directement par les délinquants seront refusées.

La Directive du Commissaire 785 du SCC fournit des renseignements additionnels sur les demandes de participation au processus de médiation entre la victime et le délinquant formulées par les victimes, les établissements et la collectivité dans le cadre du programme PJR.

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